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AUTHOR Patrick, John J.
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ABSTRACT

The U.S. Constitution and the Northwest Ordinance are foundations of U.S. civic culture. Since they are among the most important legacies U.S. citizens have, they deserve a prominent place in the curricula of schools and the general education of citizens. But most people do not adequately understand the Constitution and lack both awareness and knowledge of the Northwest Ordinance. Most secondary school U.S. history textbooks include less than one page on the Northwest Ordinance and it is not a part of the standard secondary school courses in civics and government. There also is a need for improvement in the quality and quantity of course content on the Constitution. Recent studies recommend using the concurrent anniversaries of the two documents as an opportunity to promote and emphasize both documents in the core curricula of secondary schools. The following concepts should be emphasized in history, government, and civics classes: (1) U.S. innovations in constitutional definition, constitution-making, and state-making; (2) historical and contemporary comparisons of constitutional change in the United States and variations in types of constitutions and governments around the world; and (3) international connections of U.S. constitutional government, both in their origins and subsequent global influences. (JHP)

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TEACHING ABOUT THE U.S. CONSTITUTION AND THE NORTHWEST ORDINANCE OF 1787 IN SECONDARY SCHOOLS

BY JOHN J. PATRICK

DIRECTOR, SOCIAL STUDIES DEVELOPMENT CENTER

INDIANA UNIVERSITY, BLOOMINGTON

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TEACHING ABOUT THE U.S. CONSTITUTION AND THE NORTHWEST ORDINANCE OF 1787 IN SECONDARY SCHOOLS

BY JOHN J. PATRICK

Say the word bicentennial today and Americans are likely to think about the United States Constitution of 1787. But there is another bicentennial of 1987 that should command our attention--the 200th anniversary of the Northwest Ordinance, which was passed on July 13, 1787 by Congress under the Articles of Confederation. In the summer of 1787, the Constitutional Convention in Philadelphia and the Confederation Congress in New York simultaneously resolved critical problems of national government in the United States. While our Founding Fathers were forming an effective central government under a new Constitution, members of Congress under the moribund Articles of Confederation were establishing orderly and equitable means of transforming colonial territories of the United States into self-governing and co-equal states of an expanding federal union. Acting separately, the Constitutional Convention and the Confederation Congress created interlocking parts in the foundation of our American nation.

Educators and historians tend to lament "the ongoing reality that most of us do not adequately understand the Constitution."[1] They acknowledge, however, that most Americans are at least aware of their enduring frame of

government and in varying degrees venerate it. By contrast, most citizens of the United States, young or old, seem to lack both awareness and knowledge of the Northwest Ordinance, which "is relatively unknown outside of scholarly circles."[2]

The Northwest Ordinance deserves more recognition and understanding, because, like the Constitution of 1787, it was both an innovative instrument of self-government and a legacy of distinctive civic values and concepts, which shaped development of our American nation. Leading American historians and statesmen have considered the Northwest Ordinance to be among the most important state papers of the United States, outranked only by the Declaration of Independence and the Constitution. President Franklin D. Roosevelt called it "that third great charter . . . the highway over which poured the westward march of our civilization . . . the plan on which the United States was built."[3] Historian Ray Allen Billington, wrote that "the Ordinance of 1787 did more to perpetuate the Union than any document save the Constitution."[4] Daniel J. Boorstin proclaimed, in a prize-winning work on American history: "A half-century after the adoption of the Ordinance of 1787, this scheme of progressive decolonization had become a glorious fixture among American institutions. . . . The successful application of this notion of a predictable, gradual step-by-step progress toward self-government and national involvement is one of the marvels of American history."[5]

Given the views of experts cited above, it seems that both the Constitution and Northwest Ordinance, especially the coordinate ideas of these two documents, should be emphasized in the core curriculum of American secondary schools--in courses on American history, government, and civics that are required of all students as part of their general education for citizenship. Of course, the Constitution and Northwest Ordinance are treated in secondary school textbooks and curriculum guides. However, coverage of these basic charters of the American heritage tends to be less than satisfactory.

Most secondary school American history textbooks include less than one page on the Northwest Ordinance. It is discussed as the final achievement of government under the Articles of Confederation and scarcely or never mentioned again, even though the Ordinance of 1787 was the framework by which thirty-one of our fifty states entered the federal union--a fact unreported in the textbooks and presumably unknown to most high school graduates.[6] The Northwest Ordinance does not seem to be part of standard secondary school courses in civics and government; it is not even listed in the index of most textbooks on these subjects.

Secondary school textbooks in American history, civics, and government certainly cover the Constitution more extensively than any other document in the American heritage. According to textbook studies commissioned by Project '87, however, the coverage is less than one might expect, given

the fundamental importance of the document as a practical instrument of government, symbol of nationhood, and source of core concepts and values in the civic culture.[7]

The Project '87 textbook studies, and a recent review of literature about secondary school education on the Constitution,[8] conclude that there is considerable room for improvement in the quantity and quality of course content on the Constitution. A major recommendation of these studies is that the bicentennial of 1987 should become an occasion for renewing and enhancing education on the Constitution. A corollary on the Northwest Ordinance should be added to this proposal to remind us to consider the two celebrations in concert as the bicentennials of '87, and to prompt us to emphasize both the Constitution and the Northwest Ordinance in the core curriculum of secondary schools.

Bicentennial fervor has already generated various school programs to renew education on the Constitution and Northwest Ordinance, with many more to come. Certainly, there are many valid ways to approach curriculum reform in this field. However, three often slighted, but very important, guidelines on content improvement deserve special consideration by teachers and curriculum developers as part of whatever else they decide to do. In core courses on history, government, and civics, emphasize the following goals. Require students to:

(1) Examine American innovations in constitutional definition, contitution-making, and state-making.

(2) Make different kinds of comparisons, historical and contemporary, to highlight constitutional change in the United States and variations in types of constitutions and governments around the world.

(3) Investigate international connections of constitutional government in the United States in its origins and in its subsequent global influence.

The following discussion identifies content implied by these three goals that might be infused into secondary school courses on history, government, and civics. The overriding purpose is guiding teachers and curriculum developers in course content improvement on behalf of the central mission of the social studies in American secondary schools--education for citizenship in a free society. Detailed knowledge of content implied by these three goals is likely to enhance students' understanding of, pride in, and rational commitment to our American civic tradition--defensible outcomes of sound education for citizenship in the United States. A related purpose is influencing educators to add content to the secondary school curriculum that is likely to illuminate, in an interesting manner, significant concepts, values, and issues of our civic heritage associated with both the Constitution and Northwest Ordinance of 1787.

American Innovations In Constitution-making And State-making. Among the most important achievements of American

civilization are innovations in the definition of constitution, means of writing and ratifying a constitution, and extension of constitutional government to new territories through principles in the Northwest Ordinance. Therefore, they merit emphasis in citizenship education as staples of required studies in history, government, and civics.[9] At the very least, the following ideas should be prominent parts of the core curriculum of secondary schools.

Americans were the first to hold a convention for the sole purpose of writing a constitution. They also were originators of popular constitutional choice in the form of a ratifying convention--an assembly of the people's representatives with the single purpose of approving or rejecting a proposed constitution--in the name of those who would be governed by it. Massachusetts invented these ideas in drafting and ratifying the state constitution of 1780, and they were adopted by our Founding Fathers in 1787. Constitutions in the other twelve American states had been written and approved by the regular state legislatures, which then continued their normal duties of law-making. This was also the manner of making the first constitution of the United States, the Articles of Confederation, which was drafted by a committee of the Continental Congress and then debated and finally approved by members of that national legislative body.

The innovations of using special conventions to make and approve a constitution were parts of a new American definition of constitution created during the 1780s. In the novel American conception, a written constitution--made and approved in the name of the people by their representatives in special conventions--was the supreme law, higher than any statutes made subsequent to it by any mere legislative bodies and not to contradicted by them. By contrast, in Great Britain, the "constitution" was not a single document, but "the whole sum of charters, statutes, declarations, traditions, informal understandings, habits, and attitudes by which the government was actually administered."[10] In Britain, there was, and is, no such thing as judicial review to determine whether a statute was unconstitutional; rather, any statute of Parliament, passed by simple majority vote, could change the "constitution."

In The Federalist (No. 53), James Madison stressed the originality and value of the American conception of a written constitution as supreme law: "The important distinction so well understood in America between a Constitution established by the people and unalterable by the government, and a law established by the government and alterable by the government, seems to have been little understood and less observed in any other country. Wherever the supreme power of legislation has resided, has been supposed to reside also the full power to change the form of the government."[11] Madison,

Hamilton, and other Founding Fathers argued that a written Constitution, made and ratified in the name of the people by their representatives meeting in special conventions, was paramount to the government. Thus, liberties and rights of the people would be protected against tyranny by constitutional limitations on the power of government.

The Founding Fathers also believed in extending their notions of popular constitutional government and freedom to the undeveloped territories of their new American nation. In 1789, during the first session of Congress under the new Constitution, they reaffirmed the Northwest Ordinance of 1787 and launched the world's most innovative and enlightened policy of colonial administration. Through the Northwest Ordinance, the United States became the first nation to establish a process of gradual self-government for its territorial possessions that led inevitably to statehood on equal terms with the founding states of the federal union. Furthermore, inhabitants of the territories were expected to repeat the constitution-making experience of the original states as a condition for statehood. Thus, they would enter the federal union with representative and limited government that embodied basic liberties and rights in the American civic culture. Such was the American way to national devlopment through systematic creation of new states from colonial territories--a way initiated in the "Old Northwest Territory" and extended far beyond it, with implications for

territorial expansion through addition of new states in the future--Puerto Rico perhaps, or American Somoa, or some other political unit wishing to petition for annexation by the United States.

Comparative Perspectives On American Constitutional Government. Comparative study of constitutions and governments in the past and present is a key to deeper understanding and an antidote to spurious criticisms of the Constitution of 1787. Therefore, development of skills in comparative thinking should pervade lessons on constitutional history and government. Following are a few suggestions about the objects and terms of comparison in studies of the American Constitution and Northwest Ordinance.

Comparative study of American government under the Constitution of 1787 with other governments in the world of that time will certainly expand one's knowledge. It also is likely to increase the student's appreciation of the Founding Fathers' achievements and reduce tendencies to accept denunciations of the Constitution of 1787 that are based on the standards of 1987. By today's standards, the Constitution of 1787 seems flawed in its tacit acceptance of slavery and of states' rights to exclude a majority of the people from meaningful participation in government. However, comparative study leads indisputably to the conclusion that

the Constitution of 1787 established the freest government in the world at that time. Consider the following examples.

In the world of 1787, monarchies and aristocracies of one sort or another prevailed; there were only four other republics--Venice, Genoa, Switzerland, and Holland--and none had a written constitution to limit the power of governors and protect liberties of the people. Although participation in government was limited to a minority of the population in the United States, the proportion of Americans taking part in their governance was unparalled.

Concepts of free government, taken for granted by Americans today, were daring and unique in the world of 1787. Classical political theorists and philosophers of the Enlightenment had written about republicanism, federalism, and separation of powers, but not exactly as they were included in the Constitution of 1787, explicated by Hamilton and Madison in The Federalist, and made operational in the American federal government in 1789 and afterwards. The most venerated political thinkers, from Aristotle to Montesquieu, had maintained that a republic could thrive as a free government only within a small state. James Madison and his colleagues took the radically different position that in "an extended republic"--a large nation like the United States--there could be a workable representative government that guarded the civil liberties of individuals from the ever-present threat of tyranny by the majority.[12]

Classical and Enlightenment conceptions of federalism had more in common with the Articles of Confederation than with the novel blend of federal and national characteristics in the Constitution of 1787. According to Madison: "The proposed Constitution . . . is, in strictness, neither a national nor a federal Constitution, but a composition of both."[13] The state-making mechanism of the Northwest Ordinance was compatible with the new federalism of the Constitution. In concert, these two documents represented a new conception about how colonial territories should be related to original states and how both territories and states should be connected to a national government.

The American principle of separation of powers with checks and balances was another unique application of a celebrated idea of the Enlightenment.[14] And the American presidencey was an office unlike any other, a completely fresh view of the powers and duties of a chief executive, which blended, in Hamilton's terms, "energy in government" neccessary to maintain order and security with constitutional restraints against tyranny.[15]

Through comparative study of theories and practices of government in the United States and elsewhere, secondary school students might develop fuller knowledge and appreciation of the American achievement of 1787. Comparative study of government in different periods of American history

should also be emphasized, because this is the way to teach about continuity and change in the Constitution, and to demonstrate its dynamic qualities. Shortly after the Constitutional Convention ended the Founding Fathers alerted Americans to the necessity for constitutional change within the framework they established. James Madison wrote: "In framing a system which we wish to last for ages, we should not lose sight of the changes which ages will produce."[16] And George Washington also stressed the value of continual appraisal of the Constitution: "The warmest friends and the best supporters the Constitution has do not contend that it is free from imperfections. . . ." He challenged citizens then and now to decide "on the alterations and amendments which are necessary. . . . I do not think we are more inspired, have more wisdom, or posses more virtue than those who will come after us."[17]

Constitutional changes were made during President Washington's administration, most notably Amendments I-X, and have continued ever since that time through both formal and informal means. On balance, these changes have expanded the scope of free government and extended liberties to more and more citizens. Seeds of freedom planted in 1787 progressively flowered throughout 200 years of national development, so that the Constitution of 1987 is significantly more democratic than the original frame of government. Our students can learn most effectively about constitutional

changes and continuities through comparative study of the Constitution at different periods of United States history.

A final use of comparison is examination of similarities and differences between the United States Constitution today and other contemporary constitutions and governments. There are more than 170 written constitutions in the world, and our students should learn about significant variations in their promises and practices regarding free government. A testimonial to the force of the American political achievement is that two words closely associated with it--constitution and democracy--have become tickets to international civic respectability. These terms are even used by self-proclaimed "peoples' democracies" that allow little or no government of and by the people. Through comparison our students will learn that some of the most repressive regimes in the world today have constitutions with grand words about popular government and freedom, which nonetheless have little or no meaning in the day-to-day operations of the government. By contrast, the American Constitution is a meaningful instrument of goverment--one of the minority in the world that really guards liberties of individuals against tyranny.

Global Connections Of The Constitution And Northwest Ordinance. It is a short step from comparative study of the American Constitution and Northwest Ordinance to examination of their global connections, which are all too often ignored

or glossed over in the secondary school curriculum.[18] Most of our students know too little about the Constitution of 1787 as a product of western civilization. Ideas about republican constitutional government were an obsession of 18th century thinkers in Europe before they were modified innovatively by the Founding Fathers and made operational through the United States Constitution. And these civic ideas of the European Enlightenment were an outgrowth of traditions extending back to the classical civilizations of Greece and Rome.

The strongest Old World influences on American constitution-makers came from England and Scotland, the ancestral homelands of the majority of North Americans in the 1780s. Americans should never forget that our Revolution was started in defense of "English liberties" and that the tradition of liberty under law was deeply rooted in Britain long before it became American. Gordon Wood, an eminent scholar of the Founding Period has concluded: "Without the influence of the English constitutional and legal tradition, it is inconceivable that Americans in 1787 or later would have believed and acted as they did."[19]

Of course, the American constitutional government, though inspired and influenced by Europeans, especially the English and Scots, was quite different from its Old World antecedents in 1787 and become more distinctively American through two centuries of national development. However, our

secondary school students should have opportunities to learn that the American constitutional heritage, then and now, is fundamentally part of western civilization, both in its origins and its subsequent world-wide influences.

No other frame of government has had anywhere near the global impact of the United States Constitution, which first influenced the French and other Europeans and then spread to other parts of the world. Albert Blaustein, a leading expert on constitutions of the world, says: "The United States Constitution is this nation's most important export."[20] Consider a few examples in support of this claim.

All but six countries of the world today have a written constitution, many of them influenced by the American model. The Polish and French constitutions of 1791, extensively influenced by the United States Constitution of 1787, were short-lived, but the French document had considerable influence on later constitutions in Europe and Latin America. Since achievement of independence from Spain, the constitutions of several Latin American countries have been directly influenced by the United States. The current constitutions of France, West Germany, Japan, the Philippines, and India include notable examples of ideas borrowed directly from the United States Constitution or adapted from it. Of course, the practical applications of these consitutional ideas has varied considerably in terms of different national cultures.

The most copied American idea during the past 200 years

has been the use of a special convention or constituent assembly to make a constitution. This has been an unsurpassed way to legitimize a revolution or the creation of a new state. According to Blaustein: "It legalized and legitimized revolutions, enabling men to do what they had not yet been able to do peacefully and legally--to alter or abolish government and institute new governments deriving their authority from the consent of the governed."[21]

The original state-making ideas in the Northwest Ordinance are another part of the American constitutional tradition that has had significant, if belated, recognition in the world. British colonial policies toward Canada, Australia, and New Zealand in the later part of the 19th century--culminating in gradual achievement of complete self-government in the 20th century--show evidence of American influence. Likewise, Canada has followed policies similiar to the Northwest Ordinance in transforming its western lands into self-governing provinces.

Mostly, however, the world began to heed the American example only in our century, and half-heartedly at best. Consider this interpretation by Henry Steele Commager:

> No Old World nation had known what to do with colonies except to exploit them for the benefit of the mother country. The new United States was born the largest nation in the Western world and was, from the beginning and throughout the

> 19th century, a great colonizing power with a hinterland that stretched westward to the Mississippi and, eventually, to the Pacific. By the simple device of transforming colonies into states, and admitting these states into the union on the basis of absolute equality with the original states, the Founding Fathers taught the world a lesson which it has learned only slowly and painfully down to our own day.[22]

A final idea on global influences pertains to guarantees of civil liberties and rights embodied in the Constitution and the Northwest Ordinance, which have inspired people around the world to declare certain ideals of freedom as their highest civic standards. The most notable example is the Universal Declaration of Human rights adopted by the United Nations in 1948 and drafted primarily by the delegate from the United States, Eleanor Roosevelt. Even in nations where the government falls far short of these ideals, they remain enshrined in constitutions and other state papers. This is powerful evidence of the universal appeal of civic values associated with the founding of the United States.

State constitutions of the revolutionary era and the Northwest Ordinance were primary sources of the celebrated American heritage of civil liberties--admired throughout the world. However, these facts are usually overlooked in textbooks and course on history, government, and civics.

American students should learn that the six Articles of Compact in the Northwest Ordinance of 1787 are the oldest code of civil liberties enacted and enforced by a government of the United States.[23] These Articles of Compact recognized certain fundamental civil liberties for the inhabitants of the western territories that were not included in the Constitution until ratification of the Bill of Rights in 1791--for example, freedom of religion, legal protection of property rights, and due process in legal proceedings.

In Conclusion. As we celebrate the bicentennials of '87--the 200th anniversaries of the Constitution and Northwest Ordinance, let us resolve to revitalize education on both documents of freedom for the present and the future. Both documents include core concepts and values of the American civic culture, such as the rule of law, representative and limited government, dignity and worth of the individual, and various rights and freedoms under law. Both documents guaranteed civil liberties and rights in an era when these values were very limited in the civil institutions of western civilization and virtually non-existent anywhere else in the world. Both documents were bases for development of a new kind of nation, an expansive federal republic of continental dimensions.

Together, the Northwest Ordinance and Constitution are bedrocks of our civic culture. Both documents are among the

most important legacies Americans have, and both of them should have prominent places in the curricula of schools and the general education of citizens.

NOTES

1. Michael Kammen, A Machine That Would Go Of Itself: The Constitution in American Culture (New York: Alfred A. Knopf, 1986), xviii.

2. Frank B. Jones, Rationale Behind the Project to Celebrate the 200th Anniversary of the Northwest Ordinance of 1787 (Bloomington, Indiana: National Committee for the Bicentennial Celebration of the Northwest Ordinance of 1787, 1986), 1.

3. Quoted in Harlow Lindley, Norris F. Schneider, and Milo M. Quaife, History of the Ordinance of 1787 and the Northwest Territory (Marietta, Ohio: Northwest Territory Celebration Commission, 1937), 79.

4. Ray Allen Billington, Westward Expansion: A History of the American Frontier (New York: Macmillan, 1967), 217.

5. Daniel J. Boorstin, The Americans: The National Experience (New York: Vintage Books, A Division of Random House), 422.

6. Frederick Merk, History of the Westward Movement (New York: Alfred A. Knopf, 1978), 106.

7. John J. Patrick, "Treatment of the Constitution in American History Textbooks," in Teaching About the Consti-

tution in American Secondary Schools, ed. Howard Mehlinger (Washington, D.C.: Project '87 of the American Historical Association and the American Political Science Association, 1981), 89-106; Richard C. Remy, "Treatment of the Constitution in Civics and Government Textbooks," in Teaching About the Constitution in American Secondary Schools, ed. Howard Mehlinger, 107-128.

8. Ibid.; John J. Patrick, Richard C. Remy, and Mary Jane Turner, Education on the Constitution in Secondary Schools: Teaching Strategies and Materials for the Bicentennial and Beyond (Bloomington, Indiana: ERIC/ChESS and the Social Studies Development Center of Indiana University, 1986), Chapter 1.

9. The Project '87 textbook studies in Teaching About the Constitution in American Secondary Schools, ed. Howard Mehlinger reveal that the concept of constitution in the American heritage and national development is either ignored or treated superficially in secondary school textbooks.

10. Daniel J. Boorstin, The Americans, 406.

11. Alexander Hamilton, James Madison, and John Jay, The Federalist Papers, ed. Clinton Rossiter (New York: New American Library, A Mentor Book, 1961), 331.

12. Ibid., 324-325.

13. Ibid., 246.

14. Ibid., 301.

15. Ibid., 423.

16. Quoted in Edwin C. Rozwenc and Frederick E. Bauer, Jr., Liberty and Power in the Making of the Constitution (Boston: D.C. Heath, 1963), 6.

17. Quoted in Saul K. Padover, The Living U.S. Constitution (New York: The New American Library, A Mentor Book, 1953), 20.

18. The Project '87 textbook studies document the scanty treatments of comparative and global perspectives on the Constitution of the United States in secondary school textbooks. See Teaching About the Constitution in American Secondary Schools, ed. Howard Mehlinger.

19. Gordon S. Wood, "The Intellectual Origins of the American Constitution," National Forum 54 (Fall 1984): 13.

20. Albert P. Blaustein, "The United States Constitution: A Model in Nation Building," National Forum 54 (Fall 1984): 14.

21. Ibid., 14.

22. Ibid., 38.

23. Jack Ericson Eblen, The First and Second United States Empires: Governors and Territorial Government, 1784-1912 (Pittsburg: University of Pittsburg Press, 1968), 17-51; Peter S. Onuf, The Origins of the Federal Republic: Jurisdictional Controversies in the United States, 1775-1787 (Philadelphia: University of Pennsylvania Press, 1983), 186-209.